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January 17, 2013

By Fax (212) 805-6712

Date 1/18/13

Docket and File

Honorable Kevin Nathaniel Fox, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Kevin Nathaniel Fox
HON. KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

Re: Photogenics, LLC v. DNA Model Management, LLC. Case No. 11-CIV-9464

Honorable Sir:

This firm represents defendant DNA Model Management, LLC in the above referenced action. This letter is being sent in response to opposing counsel's letter sent to you yesterday seeking permission to file a confidential document under seal in connection with a motion seeking leave to file an amended complaint. Plaintiff should not be permitted file such a motion as it is untimely.

Pursuant to the Order of this Court dated November 27, 2012 the discovery cut-off date is February 7, 2013, just a few weeks from now. There is a settlement mediation scheduled for next week on January 22, 2013 and if the action is not settled, depositions are scheduled for January 24, 2013 and January 29, 2013, enabling us to complete the discovery prior to the cut-off date. Plaintiff should not be permitted to seek leave to amend its complaint at this late date as it will require further discovery and a further extending of the discovery cut-off date which has already been extended on prior occasions.

While this action has been brought by plaintiff, it has failed to diligently pursue its claims, only talking action when this Court has directed. Plaintiff's counsel has let inordinate amounts of time to go by without any furtherance of this case and should not be permitted to further delay these proceedings. As such, the request by plaintiff should be denied as plaintiff should not be permitted to file a motion seeking to amend its complaint.

Respectfully yours,

Russell Shanks

cc: Nehemiah Glanc, Esq.
By fax

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